

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Christopher Anderson	Team: Squad #11	CCRB Case #: 201905207	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 06/15/2019 , Sunday, 06/16/2019 1:43 AM	Location of Incident: West 4th Street and Charles Street	Precinct: 06	18 Mo. SOL 12/16/2020	EO SOL 8/2/2021	
Date/Time CV Reported Sun, 06/16/2019 9:52 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 06/16/2019 9:52 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Justin Cristiano	11366	951891	006 PCT
2. POM Stephen Cambria	05589	960309	006 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jonathan Oliveras	13842	943628	006 PCT
2. POM Patrick Defonzo	09791	957523	006 PCT
3. POM Charles Starling	23775	953445	006 PCT
4. SGT Keith Luk	04462	949886	006 PCT
5. POM Kachun Cheung	05890	963454	006 PCT
6. POM James Shouldis	16502	958068	006 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Justin Cristiano	Force: Police Officer Justin Cristiano used physical force against § 87(2)(b)	
B.POM Justin Cristiano	Discourtesy: Police Officer Justin Cristiano spoke discourteously to § 87(2)(b)	
C.POM Justin Cristiano	Abuse: Police Officer Justin Cristiano forcibly removed § 87(2)(b) to the hospital.	
D.POM Stephen Cambria	Discourtesy: Police Officer Stephen Cambria spoke discourteously to § 87(2)(b)	

Case Summary

On June 16, 2019, § 87(2)(b) filed this complaint on the CCRB Website.

On June 16, 2019, while returning to his home in the vicinity of West 4th Street and Charles Street in Manhattan, § 87(2)(b) interacted with an individual and, at approximately 1:43 a.m., placed a call to 911. Numerous officers, including PO Justin Cristiano and PO Stephen Cambria of the 6th Precinct, responded to the location. PO Cristiano allegedly used physical force against § 87(2)(b) (**Allegation A -Force: Physical force, § 87(2)(g)**).

PO Cristiano used profanity towards § 87(2)(b) (**Allegation B -Discourtesy: Word, § 87(2)(g)**). § 87(2)(b) was transported to Bellevue Hospital Center in Manhattan for a psychiatric evaluation (**Allegation C -Abuse of Authority: Forcible removal to hospital, § 87(2)(g)**). As PO Cristiano and § 87(2)(b) interacted, PO Cambria used profanity towards § 87(2)(b) (**Allegation D -Discourtesy: Word, § 87(2)(g)**). § 87(2)(b) was not arrested or issued a summons as a result of this incident, and § 87(2)(b) was arrested and charged with § 87(2)(b) (Board Review 01).

Video footage obtained in this incident was recorded by multiple officers on their Body-Worn Cameras (BWCs) and provided to the CCRB by the NYPD's Legal Bureau.

Findings and Recommendations

Allegation (A) Force: Police Officer Justin Cristiano used physical force against § 87(2)(b)

A portion of BWC footage recorded by PO Cristiano captured his arrival at the incident location and initial interaction with § 87(2)(b) (Board Review 02). Portions of BWC footage recorded by PO Cristiano and PO Kachun Cheung were compiled in a side-by-side overlay, with PO Cristiano's footage to the left, PO Cheung's footage to the right, and only the audio stream of PO Cristiano's footage captured (Board Review 03). These portions of footage, in totality, depict circumstances relevant to Allegations A, B, and C.

§ 87(2)(b) stated (Board Review 04) that after initially interacting with PO Cristiano, PO Cristiano stood across the street from him, physically pointed towards him in a manner he thought intended to attract other officers' attention to him, and then walked towards him. § 87(2)(b) walked towards PO Cristiano, and PO Cristiano pushed him backwards with two open palms.

PO Cristiano stated (Board Review 05) that when he arrived at the incident location, he attempted to separate § 87(2)(b) from § 87(2)(b) and instructed § 87(2)(b) to move to a sidewalk; § 87(2)(b) complied with this. When PO Cristiano later approached § 87(2)(b) on this sidewalk with the intent to acquire information from him, § 87(2)(b) began yelling, the content of which he did not recall, and PO Cristiano placed a hand on his shoulder in a manner intended to "comfort him." PO Cristiano denied pushing § 87(2)(b).

The portions of BWC footage above are generally consistent with PO Cristiano's statement in that he arrived at the location, instructed § 87(2)(b) to move away from him, and then later approached him, at which time he appears to place one open palm against § 87(2)(b)'s chest for approximately two seconds and does not otherwise make physical contact with him.

§ 87(2)(g)

§ 87(2)(g)

Allegation (B) Discourtesy: Police Officer Justin Cristiano spoke discourteously to § 87(2)(b)

Allegation (C) Abuse of Authority: Police Officer Justin Cristiano forcibly removed § 87(2)(b) to the hospital.

It is undisputed that PO Cristiano told § 87(2)(b) that he would be removed to a hospital and that § 87(2)(b) was subsequently transported to § 87(2)(b) for a psychiatric evaluation by Emergency Medical Technicians (EMTs) and officers. While civilian witnesses from whom statements were obtained did not hear PO Cristiano speak discourteously to § 87(2)(b) this was corroborated by § 87(2)(b)s and PO Cristiano's statements.

(1) EMT § 87(2)(b) stated (Board Review 06) in a telephone statement that when he arrived at the incident location, he exited the ambulance and spoke § 87(2)(b) EMT § 87(2)(b) asked § 87(2)(b) what occurred, and § 87(2)(b) informed him that § 87(2)(b) had been harassing individuals and punched an elderly male, that § 87(2)(b) "intervened" with § 87(2)(b) that officers instructed § 87(2)(b) to stop, which he refused to do, that § 87(2)(b) became "irate" and yelled at officers, using profanity, and that officers handcuffed § 87(2)(b) and called 911 for him.

§ 87(2)(b) told EMT § 87(2)(b) that he had no medical complaints and was confused about why he would be transported to a hospital. EMT § 87(2)(b) informed § 87(2)(b) that because the call for assistance had come from NYPD as an Emotionally Disturbed Person (EDP), it was "safety protocol" to transport him to a hospital for a psychiatric evaluation. § 87(2)(b) did not say or do anything in EMT § 87(2)(b)s presence that led him to believe that he was an EDP. An officer informed EMT § 87(2)(b) that § 87(2)(b) had been designated as an EDP due to his being "irate" and refusing to cooperate with officers. EMT § 87(2)(b) observed that § 87(2)(b) was "a little mad" about his having been handcuffed and being transported to a hospital but was not "irate" or "verbally being aggressive or uncooperative."

(2) § 87(2)(b) a friend of § 87(2)(b) stated (Board Review 07) in a telephone statement that she did not see PO Cristiano push § 87(2)(b) did not hear him use specific profanity towards him, thought that PO Cristiano had had § 87(2)(b) transported to a hospital due to PO Cristiano being a "head honcho" and due to § 87(2)(b)s not "calming down."

§ 87(2)(b)s medical records from § 87(2)(b) (Privileged Document 01) contains the following notes by § 87(2)(b) at § 87(2)(b) on § 87(2)(b), verbatim:

"On exam, patient did not appear acutely depressed, manic, intoxicated, or psychotic. Patient was calm and in good behavioral control. He appeared well-related with linear and logical thought process. He was future-oriented and appropriate.

This patient has chronic risk factors for harm to self or others including history of reported anxiety, depression and trauma, prior substance use and suicide attempt. While patient appears to have become somewhat dysregulated during confrontation with police earlier this

evening, patient's acute risk does not appear to be significantly elevated. He has been in good behavioral control over the course of several hours of observation, has good social support and follow up with an established provided. This assessment was supported by collateral. Patient wishes to be discharged and does not meet criteria for further involuntary hospital-based detainment."

PO Cristiano stated that after attempting to "comfort" § 87(2)(b) he walked away from him, and § 87(2)(b) continued "going nuts" in that he yelled. § 87(2)(b) walked behind PO Cristiano, who said, "Stop following me." § 87(2)(b) told PO Cristiano that the area was "his block" and said something to the effect of, "Remove me." Due to § 87(2)(b) continuing to yell and "causing a big scene," PO Cristiano thought that he appeared to be an EDP. PO Cristiano did not think that § 87(2)(b) made any threats towards him or anyone else.

PO Cristiano did not recall speaking with any officers regarding what would be done with § 87(2)(b) and he did not recall whether he conferred with any supervisors regarding § 87(2)(b) being transported to a hospital. PO Cristiano told § 87(2)(b) that he would be transported to a hospital, and he informed him of this because of the "way he was acting" in that PO Cristiano thought him to be an EDP. PO Cristiano did not recall whether he interacted with any EMTs at the location.

PO Cristiano did not recall using any profanity towards § 87(2)(b). When presented with a portion of the BWC footage referenced above, PO Cristiano stated that this footage was an accurate representation of the events he had described regarding his approaching and then walking away from § 87(2)(b). PO Cristiano stated that the reason he used profanity towards § 87(2)(b) was, "I was just a little frustrated with the guy, and that's all. Most likely. That's all." PO Cristiano stated that his use of the phrase "act like this" with respect to § 87(2)(b)'s behavior referred to his "acting crazy out in the street" insofar as he yelled and referred to nothing else.

The portions of BWC footage above depict PO Cristiano arriving at the incident location, exiting his vehicle, and speaking to § 87(2)(b). As he does so, § 87(2)(b) approaches them, and PO Cristiano instructs him multiple times, "Walk over there," and § 87(2)(b) walks away. When, as per the BWC embedded timestamp, PO Cristiano next interacts with § 87(2)(b) approximately two minutes later, PO Cristiano physically beckons § 87(2)(b) and says, "Yeah, yeah. Come here." He asks § 87(2)(b) "What's going on?" § 87(2)(b) replies, "Well, he threatened to rape me, and he punched a dude in his fucking face." After PO Cristiano places his palm on § 87(2)(b)'s chest and says, "Dude, listen. I'm telling you," § 87(2)(b) backs away from him and says, "Get your hands off me. Don't touch me." PO Cristiano says, "Alright, go. Get out of here," turns away from § 87(2)(b) and walks away.

§ 87(2)(b) walks behind PO Cristiano and says, "No, I'm not gonna get out of here. I live here. I live here on this block. Get me the fuck out of here." § 87(2)(b) stops approaching PO Cristiano after reaching a distance of approximately four feet from him, and PO Cristiano says, "I'm sorry?" § 87(2)(b) says, "Get me out of here." PO Cristiano approaches § 87(2)(b) and says, "Turn around." § 87(2)(b) moves backwards from PO Cristiano and says, "Get away from me, man." PO Cristiano says, "Turn around. Turn the fuck around. You want to fucking act like this, you go to the hospital now." PO Cristiano and other officers handcuff § 87(2)(b) and PO Cristiano says, "Fuck out of here. You don't talk to people like that." § 87(2)(b) yells, "You guys see this, right? You see this douchebag, right? Everybody see it? Videotape this shit. Who the fuck you think you are?"

Officers must interact with members of the public in a professional manner. NYPD Patrol Guide, Procedure 203-09 (Board Review 08). An EDP is defined as “a person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others. An officer is to have restrained EDPs removed to a hospital in an ambulance. NYPD Patrol Guide, Procedure 221-13 (Board Review 09).

§ 87(2)(g)

§ 87(2)(g)

Allegation (D) Discourtesy: Police Officer Stephen Cambria spoke discourteously to § 87(2)(b)

An approximately 30-second portion of BWC footage recorded by PO Cambria (Board Review 10) captured this portion of the incident. § 87(2)(b) did not allege any allegations that would fall within the jurisdiction of the CCRB naming § 87(2)(b) as a victim. Exhaustive attempts to locate and contact § 87(2)(b) were made using database searches and various potential points of contact were unsuccessful, and the CCRB was unable to obtain a statement from him. PO Cambria acknowledged (Board Review 11) that he “may have” used profanity towards § 87(2)(b). When presented with the above portion of BWC footage, PO Cambria stated that he made statements to § 87(2)(b) to the effect of, “You’re ugly” and “I don’t give a shit” because § 87(2)(b) had issued repeated insults to him in a “hostile” manner and for no other reason. PO Cambria added that it was “hypocritical” for § 87(2)(b) to be permitted to do so without PO Cambria responding in a manner that utilized his freedom of speech.

Officers must interact with members of the public in a professional manner. NYPD Patrol Guide, Procedure 203-09 (Board Review 08).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 12).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 13).
- PO Cristiano has been a member-of-service for seven years and has been a subject in one CCRB case and one allegation, which was not substantiated. § 87(2)(g)
- PO Cambria has been a member-of-service for three years, and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of October 8, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 14).
- § 87(2)(b)

Squad No.: _____

Investigator: _____

Signature	Print Title & Name	Date
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Squad Leader: _____

	Signature	Print Title & Name	Date
Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date